

CALIFORNIA COASTAL COMMISSION

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Staff Report: September 23, 2004
Hearing Date: October 13-15, 2004
Commission Action:

W12h**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-04-060

APPLICANT: California Department of Parks and Recreation

PROJECT LOCATION: Crystal Cove State Park, 8471 Pacific Coast Highway, Laguna Beach, Orange County

PROJECT DESCRIPTION: Demolition and removal of existing mobile homes, office building, maintenance building, ancillary improvements, paved roadways and existing shoreline protective device at the El Morro Mobile Home Park. No grading or new construction is proposed by the current application.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing to demolish and/or remove all existing development at the El Morro Mobile Home Park, located along both sides of Pacific Coast Highway within Crystal Cove State Park. The project involves the removal of 287 mobile homes, four buildings, paved roadways and ancillary development such as patios, storage sheds and carports. The project also involves the removal of the majority of an existing shoreline protective device. Work will commence after the existing mobile home park leases expire on December 31, 2004. No grading or new development is proposed at this time. Future conversion of the mobile home park site to a campground and day use facility will be the subject of a subsequent permit action. The major issues of the staff report include water quality, scenic resources and future development at the subject site.

Staff recommends the Commission **APPROVE** the proposed development with three (3) special conditions requiring 1) future development proposals be submitted to the Commission for a new permit or permit amendment; 2) use of best management practices (BMPs) during demolition; and 3) installation of interim erosion control measures.

SUBSTANTIVE FILE DOCUMENTS: Crystal Cove Public Works Plan (1982) and *El Morro Conversion to Campground and Day Use Crystal Cove State Park FEIR* (August 2002).

EXHIBITS:

1. Location Map
2. Site Map
3. Shoreline Armoring Graphic

I. STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

MOTION:

I move that the Commission approve CDP #5-04-060 pursuant to the staff recommendation.

Staff recommends a **YES** vote. This will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT WITH CONDITIONS:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS:

1. Future Development Restriction

This permit is only for the development described in Coastal Development Permit No. 5-04-060. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use land, shall require an amendment to Permit No. 5-04-060 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

2. Storage of Materials, Mechanized Equipment and Removal of Demolition Debris

The permittee shall comply with the following demolition-related requirements:

- (a) No demolition materials, debris, or waste shall be placed or stored in a manner where it may be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) Any and all debris resulting from demolition activities shall be removed from the project site within 24 hours of completion of demolition. Demolition debris and sediment shall be removed from work areas each day that demolition occurs to prevent the accumulation of sediment and other debris that could be discharged into coastal waters. All demolition debris and other waste materials removed from the project site shall be disposed of or recycled in compliance with all local, state and federal regulations. No debris shall be placed in coastal waters. If a disposal site is located in the coastal zone, the site must have a coastal development permit allowing debris disposal or an amendment to this permit shall be required before disposal can take place;
- (c) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to coastal waters during demolition activities. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and Pacific Ocean;
- (d) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other demolition materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (e) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (f) Adequate disposal facilities for solid waste shall be provided.

3. Interim Erosion Control Measures—Post Demolition

- A. Temporary erosion control measures shall be implemented after demolition approved by Coastal Development Permit 5-04-060 is complete. Erosion on the site shall be controlled to avoid adverse impacts to habitat areas, wetlands, dedicated trails, public roadways, and park areas. The applicant shall take all safe and reasonable measures to control siltation. Temporary measures shall include, but are not limited to, stabilization of all disturbed soils with geotextiles and/or mats, sand bag and gravel bag barriers, silt fencing; temporary drains and swales; sediment basins; and landscaping. The applicant shall not implement any erosion or sediment control measures that might introduce the threat of invasive or non-native species to the subject site. The erosion control measures shall be in place one (1) week after demolition activities have been completed and shall be maintained for maximum efficiency until such time as new development is approved and initiated at the subject site.
- B. **PRIOR TO COMMENCEMENT OF DEMOLITION**, the applicant shall submit the following for review and approval of the Executive Director:
 - 1. A site plan showing the location of all temporary erosion control measures designed to achieve the goals specified in subsection A. Such site plan may acknowledge that minor adjustments in the location of temporary erosion control measures may occur if necessary to protect downstream resources.
 - 2. A copy of the Storm Water Pollution Prevention Plan (SWPPP) and any amendments thereto, prepared for compliance with the State Water Resources Control Board General Construction Activity Permit, which specifies BMPs appropriate for use during each phase of site preparation, grading and project construction, and procedures for their installation, based on soil loss calculations. The submitted calculations will account for factors such as soil conditions, hydrology (drainage flows), topography, slope gradients, vegetation cover, use of chemicals or fixatives, the type of equipment or materials proposed for use near shoreline areas and groundwater elevations.
- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. STANDARD OF REVIEW AND CONSISTENCY WITH THE CRYSTAL COVE PUBLIC WORKS PLAN

Section 30605 of the Coastal Act provides, in pertinent part, that:

Where a plan for a public works or state university or college or private university development project has been certified by the commission, any subsequent review by the commission of a specific project contained in the certified plan shall be limited to imposing conditions consistent with Sections 30607 and 30607.1.

Section 30606 of the Coastal Act states:

Prior to the commencement of any development pursuant to Section 30605, the public agency proposing the public works project, or state university or college or private university shall notify the Commission and other interested persons, organizations, and governmental agencies of the impending development and provide data to show that it is consistent with the certified Public Works Plan or Long Range Development Plan. No development shall take place within 60 working days after the notice.

Section 13359 of the Commission's Administrative Regulations states:

(b) The Commission shall...determine whether the proposed development is consistent with the certified public works plan...

The Crystal Cove Public Works Plan (PWP) was approved by the Commission with conditions on May 20, 1982. Conditions were met on August 26, 1982. The PWP includes the Crystal Cove State Park General Plan, the On-Site Maintenance Plan and the Crystal Cove State Park Historic District Development and Public Use Plan. Section 30605 of the Coastal Act, cited above, establishes the standard of review. The first threshold question is whether the specific project is contained in the PWP. If it is, then the Commission's review is limited to the imposition of conditions. The Commission can not deny a project which it previously certified as part of the PWP; however, the Commission can regulate the manner in which the project is carried out to bring it into conformance with the PWP. Once it is determined that a project is contained in the PWP, the second question is whether or not the project is consistent with the PWP.

When a proposed project is contained in sufficient detail in a certified public works plan, the coastal development permit process is superceded by the public works process. If a project is not included in the certified public works plan, then a coastal development permit from the Commission is required. In this case, the proposed project involves demolition and removal of existing mobile homes and associated improvements. No grading or new development is proposed.

The proposed project includes development that is both contained in, and consistent with, the public works plan and development which is not contained in the PWP. The mobile home leases are set to expire on December 31, 2004. Until such time, the existing mobile homes and their associated improvements are an allowable use at the subject site. However, the PWP does not specify how removal and demolition activities are to be handled. Nor does the PWP address the interim use of the site prior to campground and day use conversion. In that respect, the proposed project is a form of development not specifically allowed under the PWP.

The applicant chose to submit the project for a coastal development permit. The Commission finds that the proposed project was not previously contemplated and is therefore not contained in the

PWP. At the time the PWP was certified by the Commission, the mobile homes were under long-term leases that were to be phased out and replaced by various forms of adaptive reuse, including day use and overnight camping. There are no provisions for demolition and phased redevelopment of the site provided in the PWP. As such, a coastal development permit (CDP) has been applied for by State Parks to address the removal and demolition of the mobile homes. A subsequent permit application will be considered for the future redevelopment of the site. The Coastal Act will serve as the standard of review for the proposed project, with the Crystal Cove Certified PWP serving as guidance.

The Land Use and Facilities Element of the Certified PWP General Plan describes existing land uses of the park.

In addition to the inholdings [Laguna Beach Reservoir and El Morro Elementary School], the El Morro Mobile Home Park is located around the mouth of Moro Creek. In lieu of relocation rights, the state has arranged 20-year leases for the current tenants.¹ Removal of the mobile home park will occur after the leases expire.

The PWP describes the future use of the El Morro Area of the park as follows:

This area of the park, which includes upland and canyon bottom lands inland of the highway, has a high potential for a variety of recreational uses. Visitor support facilities that will be required for full public use and enjoyment are discussed below...

...Day-Use Facilities

After the mobile home park is removed, day-use activity areas and picnic facilities will be located along both sides of Moro Creek, in Moro Canyon...

...Overnight Use

A site of about 10 acres in what is now part of the El Morro Mobile Home Park, located on the marine terrace above the highway, will be developed as a campground. After the current mobile home leases expire, most of the utilities and necessary improvements can be adapted to campground development. Park visitor will enjoy coastal camping experiences within walking distance of Moro Cove Beach.

The proposed project involves demolition and removal of existing structures and facilities within the mobile home park once the leases expire. No new structures are proposed by this permit application. Implementation of the project is consistent with land use policies outlined in the certified PWP.

B. Project Location, Description and Background

Project Location

Crystal Cove State Park is located in Orange County between the communities of Corona del Mar to the north and Laguna Beach to the south (Exhibit 1). The 2,791-acre State Park includes a 3.25-mile long coastal section west of Pacific Coast Highway (PCH) and several inland areas, as shown in Exhibit 2. The proposed project site is the approximately 32-acre El Morro Mobile Home Park, located along both sides of PCH. The Mobile Home Park contains 214 units on the inland side of the highway and 73 on the seaward side, for a total of 287 units. Vertical public access is available approximately 2,400 feet north of the subject site at the Reef Point entrance to Crystal Cove State Park. Lateral public access is located seaward of the existing mobile homes.

¹ At the time of PWP certification, the 20-year leases would have expired in 1999. A 5-year extension was granted that allows the leaseholders to remain until December 31, 2004.

Project Description

The applicant is proposing to remove and/or demolish all existing buildings, paved roads, and associated improvements within the Mobile Home Park that remain after the existing leases expire in December 2004. There are currently 287 mobile home units, an office building, a maintenance building and two restroom buildings. Many of the mobile homes owners have constructed ancillary improvements such as patios/decks, carports and storage sheds. The leaseholders will have the option of removing their own mobile homes and associated improvements. Because the existing residents own their mobile homes, the leases contain a clause that, upon expiration, the owners will relocate their property. However, if they choose not to remove the structures, State Parks will commence removal and demolition activities in preparation for future conversion of the area to a public campground and day use facility². The current project provides for post mobile home park cleanup, removals, and demolitions of ancillary structures. The project also involves the removal of an approximately 1500 foot long shoreline armoring device constructed to protect the mobile homes on the seaward side of PCH (Exhibit 3). The existing protective device consists of stone, reinforced and unreinforced concrete, gunite, rubble and wood. Rip-rap surrounding the mouth of El Morro Creek will be retained. All construction debris will be disposed of outside the coastal zone. Work is anticipated to commence in Spring 2005 and will continue for a 4-6 month period.

Related Development

The Commission will be reviewing CDP application 5-04-297 for conversion of the subject site to a public park with day use and overnight accommodations. The conversion project involves construction of campgrounds, public amenities, parking lots, creek restoration, water quality improvements, utility upgrades, abandonment of the septic system, trail improvements, and construction of a lifeguard station. The applicant has separated the demolition activities from the proposed construction activities in order to expedite development at the project site. The Commission will have the opportunity to consider the proposed future development in its review of CDP application 5-04-297, scheduled for this same hearing. Special Condition No. 1 informs the applicant that future development requires an amendment or new permit.

C. Water Quality

Section 30230 of the Coastal Act states, in pertinent part:

Marine resources shall be maintained, enhanced, and where feasible, restored.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

² Future development at the subject site to be considered under separate permit.

Section 30232 of the Coastal Act states, in pertinent part:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials.

Sections 30230 and 30231 of the Coastal Act require maintenance and restoration of marine resources and ensure that the biological productivity of coastal waters is upheld and restored where feasible. Specifically, Section 30231 requires the quality of coastal waters be maintained through the minimization of adverse effects of wastewater discharges. Storm water flows from El Morro Mobile Home Park discharge into coastal waters via direct runoff or via El Morro Creek. The coastal waters located directly offshore are within a designated Area of Special Biological Significance (ASBS). As such, special attention must be paid to discharges entering the ocean.

Discharges from the mobile home park's septic system are suspected of contributing to non-point source pollution. The site is subject to Orders No. R9-2003-0228 and R9-2003-285 adopted by the San Diego Regional Water Quality Control Board on November 12, 2003. Order No. R-9-2003-0228 establishes waste discharge requirements from the septic system at El Morro and requires the submittal of monitoring reports. Cease and Desist Order R9-2003-0285 establishes a time schedule to achieve compliance with the requirement of R9-2003-0228. The Order requires the discharger to cease and desist from discharging wastes directly to the Crystal Cove ASBS after September 2005. Upon expiration of the leases in December 2004, State Parks intends to permanently cease the discharge of wastewater. (The future conversion project contains plans to abandon the septic system and establish a sanitary sewer system to serve the campground and day use facilities.) Post-construction best management practices (BMPs) are also proposed as part of the follow-up permit to ensure protection of water quality.

Section 30232 of the Coastal Act requires protection against the spillage of crude oil, gas, petroleum products, or hazardous substances. As discussed previously, the applicant is proposing to carry out demolition activities immediately adjacent to El Morro Creek and the Pacific Ocean. The project involves demolition of an approximately 32-acre area of structures, paved roadways and removal of an existing shoreline protective device. Storage or placement of construction materials, debris, or waste in a location subject to wave erosion and dispersion or which may be discharged into coastal waters via runoff carried by the storm water system would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged to coastal waters may cause turbidity which can shade and reduce the productivity of eelgrass beds and foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, Special Condition No. 2 outlines construction-related requirements to provide for the safe storage of demolition materials and the safe disposal of debris. The condition ensures that debris will not be allowed to enter El Morro Creek or the Pacific Ocean.

Additionally, the Commission imposes Special Condition No. 3, which requires the applicant to install temporary erosion and sediment control BMPs and/or landscaping to ensure that sediment and associated pollutants from the site do not reach receiving waters. The special condition will be in effect for the interim period between demolition approved pursuant to this permit and construction of future development at the subject site. The special condition requires that temporary erosion control measures be in place one (1) week after demolition is completed and be maintained for maximum efficiency until such time as construction is approved and initiated at the site.

Only as conditioned for appropriate storage of construction materials and equipment and implementation of interim erosion control measures does the Commission find that the proposed development consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

D. Public Access and Recreation

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

The proposed development is located between the first public road and the sea at Crystal Cove State Park. As defined by Section 30106 of the Coastal Act, "development" means change in the density or intensity of use of land or construction, reconstruction, demolition, or alteration of the size of any structure. The proposed project allows for demolition and removal of existing development at El Morro Mobile Home Park. Due to the proposed change in intensity of use and associated demolition activities, the project is considered development under the Coastal Act.

Section 30252 of the Coastal Act requires that new development maintain and enhance public access to the coast. It states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by...(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation.

Section 30213 of the Coastal Act requires that lower cost visitor and recreational facilities be protected, encouraged and where feasible, provided. It states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Public access and recreation is discussed in the Land Use and Facilities Element of the Certified PWP General Plan as follows:

The emphasis for recreation use at Crystal Cove State Park will be placed on providing a variety of appropriate recreation opportunities to enhance visitor enjoyment of the park.

The proposed development, a portion of which occurs between the nearest public road and the sea, includes the demolition of existing structures and ancillary improvements. However, the proposed demolition project will not adversely affect existing public access. No public access is currently provided at the subject site. The El Morro Mobile Home Park leasehold area currently precludes use of the site by the public. The leasehold area is the only connecting point between the major inland body of Crystal Cove State Park and the beach. To access the beach located seaward of the Mobile Home Park, members of the public must currently park at the Reef Point entrance to Crystal Cove State Park and walk over ½ mile downcoast. To access park trails located on the inland side of the Mobile Home Park, the public must park at the El Morro State Parks Headquarters parking lot located immediately inland and upcoast of the subject site.

During removal and demolition activities, public access and recreation at and around the subject site will remain largely unchanged due to the need to restrict access during the demolition work. Interim access restrictions, such as fencing and barriers, will be installed to protect the public from

safety hazards. The restrictions may result in temporary closures of inland trails and portions of the sandy beach. However, alternative access and informational signage will be provided to direct the public to safe public access. The applicant states that at least one of the two trails will remain open during construction. Beach access will continue to be provided at other Crystal Cove locations, including Reef Point.

After demolition and removal of the existing structures, the surrounding trails and beach areas will be open to the public. Hazardous areas within the former mobile home park site will continue to be restricted as the future park conversion plan is considered. The applicant intends to initiate construction of the proposed conversion project immediately after demolition is complete and all regulatory approvals are granted.

The proposed project will not create any new adverse impacts on public access and recreation, as the site is currently unavailable for public use. In fact, the project will serve as a necessary precursor to increased public access in the future. Therefore, the Commission finds that the proposed development is consistent with the public access and recreation provisions of the Coastal Act.

E. Scenic and Visual Resources

Section 30251 of the Coastal Act states, in relevant part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The project will result in the demolition and removal of 287 mobile homes and ancillary improvements within the El Morro Mobile Home Park. The existing structures vary in age and condition. The project will allow for future redevelopment of the approximately 32-acre area for public use. No new development has been approved at the subject site at this time. The site will remain vacant until such time as the Commission approves a coastal development permit for development at the subject site. As such, the project will not create a new adverse visual impact or obstruct views to or along the shoreline. Additionally, as viewed from the ocean and PCH, the project will improve public views of the ocean and the inland canyons, as all existing development will be removed. In addition, no grading or landform alteration is proposed. Accordingly, the proposed project will protect views to and along the ocean and scenic coastal areas and will minimize alteration of natural landforms. Therefore, the Commission finds the proposed development to be consistent with Section 30251 of the Coastal Act.

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The project is located within a State Park. The proposed development has been conditioned as follows to assure the proposed project is consistent with the water quality and ESHA policies of the Coastal Act: 1) acknowledgement that approval of the demolition in no way constrains the Commission's discretion in considering future development at the subject site; 2) use of best management practices (BMPs) during demolition; and 3) installation of interim erosion control measures.

As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA and the Chapter Three policies of the Coastal Act.